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THE IMPACT OF GLOBALIZATION AND THE INTERCONNECTEDNESS WITH THE COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT BETWEEN CANADA AND THE EUROPEAN UNION

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Abstract: *Elimination of the trade barriers and stimulation of business activity through trade liberalization led to the expansion in the field of the global economy. There are plentiful hesitations about who gains the highest benefit from free trade, especially when it comes to the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union. Analogously, the previous mention guides to the dilemma about the trade negotiations and their position in the same agreement in which are the labor standards. Additionally, trade liberalization has influenced the creation of a close link connection between trade, labor, and globalization. This paper focuses on the effects of globalization and trade liberalization with their connection apropos the provisions from CETA; especially with an emphasis on Chapter 23: 'Trade and Labour'.*

Keywords: *Comprehensive Economic and Trade Agreement; Globalization; Labor Mobility; Labor Standards; Trade Liberalization*

INTRODUCTION

Globalization has plenty of significant effects and implications in the society and business practice, but the positive effect of globalization can't be allowed to keep under wraps the negative repercussions in the process of trade liberalization, including the open issue of the criteria based on which the analyzes are made that exclude the side effects in the whole process. The wide number of involved countries as contracting parties in the Comprehensive Economic and Trade Agreement (CETA) with Canada provides an opportunity for contrastive consequences due to the different national legal systems and the establishment of new challenges in the international trade policy.

CETA as an agreement that is promoting the stimulation of the economic activity and social development, helping the release of customs taxes, and supporting the sustainable development in the countries is one of the most exceptional trade agreements that is ever concluded, having every intention of CETA's scope. There is no doubt that CETA's intention to provide regulation including a variety of fields is comprehensive, but as a primarily economic agreement – the scope is a stimulus to reverse the real impact on the quality of employment provided in CETA towards trade liberalization and labor mobility. Considering the previous mention, arrangement the trade negotiations in the same agreement as the employment and labor standards exemplifies a tricky approach. Trade liberalization has made successful the free movement of people, capital, and goods, but that doesn't change the possibility that free trade creates unemployment.

Also, when analyzing CETA, the contracting parties didn't inform the civil society about the negotiation process and didn't consult with the business societies, which in this case made the absence of public debates due to the protections of the labor rights and labor standards very questionable are de facto the workers under CETA provisions have economic and social benefits versus the corporations in free-market conditions. Moreover, the previous mention also made the implementation process ambiguous given the positive role of CETA in reducing global unemployment and the strength of workers' rights protection and the upholding of high labor standards. With this paper using the research deduction method starting from the general point to a more specific result, I want to contribute to the topic of who benefits more from trade liberalization and how foreign investors challenge the governments of other countries.

THE LINK BETWEEN GLOBALIZATION, TRADE, AND LABOR

The unhappiness of many working people with their deteriorating economic situations, and the feeling that they have been harmed rather than benefitted from globalization, is the driving force. All are aware that globalization has created "winners and losers" (Gantz 2017).

Despite the appreciable amount of benefits that globalization delivered in the business society, in particular within the sustainable development of the countries while engaging the smooth access to different goods and services, the implications in the practice have shown that the process of globalization invoked some inevitable challenges. For instance, diversity in labor standards and politics is one of the numerous more.

The question that this raises is, given the challenge of globalization of the world markets and the liberalization of domestic markets, can the same degree of social protection still be provided as before? Or must labor regulation be changed to stimulate competitiveness and create jobs? These questions raise the issue of the economic/social divide. The work of the WTO and that of the ILO seem to converge at the crossroads of economic development and social equity. The significance of international labor law institutions on the economic/social divide will no doubt be given attention anytime the issue of core labor standards is raised at the international level (Addo 2015).

Globalization changed the world and had an influence on the labor law and labor standards along with the way of their incorporation in the trade agreements, which also composed the flexibility for a discussion dealing with the subject of the labor chapter, labor issue, and labor standards in a comprehensive economic trade agreement as CETA. It is indisputable that the process of globalization produced the expansion of new technology and develops the interconnection between the countries among themselves, the access to new cultures and all the distinctive things that culture brings with itself like the specific food or distinctive music couldn't be imagined differently. Successively, with the acknowledgment of globalization, we have a high-level competition, in particular, that is agreeable to the ordinary citizens which are giving them indefinitely large choices that they didn't have previously, accompanying the new choices which subsequently lay the foundations of new customers on a global level.

In light of the increasing number of labor provisions in trade agreements and the variety of approaches, the question arises as to the practical implications of these provisions; in particular, whether labor provisions have created more space for improving labor standards and whether the ability to implement existing labor standards has improved. Conversely, the question also arises as to whether there is evidence that substantiates concerns that such provisions could be used for protectionist purposes (International Labour Organization 2015).

It's oversimplified the perception for indicating the importance of globalization's weaknesses, but who encompassed globalization on the negotiation stage and who arranged the intermixture of the trade issues and labor issues on that negotiation stage? Globalization is a process that has a great number of beneficial sides in the business practice, additionally is understandable that there are widespread challenges that globalization is persuading. Globalization brought into existence a world that is in such a manner connected evermore while at the same time some processes are more distant

than ever since many of the distinctive fragments in the global culture began to have the appearance of failing to keep sight of their diversity. Apart from everything else, what is the link between globalization, trade, and labor?

There are, however, some common findings: globalization can lead to considerable job turnover and result in workers losing their jobs and changing sectors, especially in the short term. Those who lose their jobs require support to recover. There also seems to be the consensus that globalization affects certain groups – such as low-skilled workers – more than others (International Labour Organization 2017).

According to the previous mention, the effects in consideration of trade liberalization are implicated on the low-skilled workers who are struggling on the labor market while being exploited from one point of view and losing their position on the labor market from another perspective. That is an absolute manifestation which indicates that globalization and trade liberalization i.e. free trade straightforward doesn't mean by default improved, sustainable but the most crucial of all - fair trade!

Core labor standards are also human rights and to that extent would be covered by the exceptions on public morals. In other circumstances, other labor standards are unlikely to be covered. However, once again, the fact that CETA includes obligations concerning labor standards that go beyond core labor standards is significant. As mentioned, CETA requires the parties to promote the objectives in the ILO Decent Work Agenda and the 2008 ILO Declaration on Social Justice for a Fair Globalization, and that could be taken as an indication that the parties agree that these values are part of their respective 'public morals'. Beyond this, however, the extent to which labor standards are seen as a matter of common values, and how much a matter of each party's comparative advantage, remains to be determined (Bartels 2017).

Understanding the comprehensive approach from the CETA's contracting parties towards several different fields triggering Chapter 23: Trade and Labour from the Agreement, it's not enough the only incorporation and providing of the labor standards to be only in that way in a trade agreement which has a focus on the economy. The assurance that the labor standards will be respected, remain high and their excellent implementation in the business practice will be provided needs to be more specific. CETA is the most ambitious treaty signed by the EU to date, encompassing as it does a broad spectrum of measures relating to entry barriers to product markets, investment and public sector procurement and purchases usually not open to foreign companies, along with provisions on other aspects relating to intellectual property rights, labor mobility, etc. More specifically, concerning lifting customs duties, the CETA eliminates 99% of tariffs on trade in industrial products between the EU and Canada as from the treaty's entry into force (González and Mora; Esther and Manrique Simón 2017).

The international trade agreements also have their function in managing the challenges that globalization produces on the negotiation platform for exemplification the certain ones making allowances for the connection with the labor, labor standards,

and the workers. Those challenges refer to handling the workers' immigration, the mechanism of recruiting the foreign workers, the process of purchasing the job across the border while having all the benefits and privileges of being a worker with respected labor standards on a high level, forbidding the exploitation of the workers with strengthening the tax regulation and also the impact of the transition of the workers across the borders on the domestic job loss.

Transparency in international negotiations is also important for broader political reasons: "Already at an early stage, transparency is important to address public reluctance, suspicion and engage with any opposition expressed regarding a particular trade deal" (Panagiotis 2016).

THE INTERDEPENDENCE BETWEEN GLOBALIZATION AND THE COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT BETWEEN CANADA AND THE EU

CETA is a very important statement for the international community at present. It affirms a commitment to rules-based trade, to open economies, and importantly to multilateralism. CETA not only lowers actual barriers to market access, but also improves on both Canada's and the EU's previous binding commitments under the World Trade Organization's (WTO) rules, both in regards to tariffs and to non-tariff barriers (NTBs) that control market access to services, investment, and government procurement. These binding commitments create greater certainty of market access for the parties to the agreement, in addition to the improved market access on an applied basis (Ciuriak 2017).

Due to the significance of globalization within every sphere, the approaches in the view of the business society are progressing towards, but in the accomplishment processes, some standards in the labor law are not unquestionably protected and are not undeniably on the appropriate trajectory as they should be. Nevertheless, with the synthesis between the trade and the labor, the de facto results in the business practice it's imperative to be in the favor of the workers, not otherwise. The affiliation between globalization and CETA is established in the very beginning of Chapter 23 of CETA, named 'Trade and Labour' where it is stated that the Parties recognize the value of international cooperation and agreements on labor affairs as a response to the international community to economic, employment and social challenges and opportunities resulting from globalization. They recognize the contribution that international trade could make to full and productive employment and decent work for all and commit to consulting and cooperating as appropriate on trade-related labor and employment issues of mutual interest (CETA, Article 23.1 Context and objectives, 184). Taking under consideration that globalization has an essential impact on why a labor issue is a topic of discussion in a trade agreement like CETA, of the highest importance

is to mention that the contracting parties didn't make an evaluation of the possible impact of CETA when the Chapter 23 of CETA, named 'Trade and Labour' is under examination in a manner how all purposes towards the implications in the business practice would be reliable and provide the proper implementation.

In the previously stated CETA Chapter, in the Multilateral labor standards and agreements it is stated that according to subparagraph 2(a), each Party shall ensure that its labor law and practices embody and provide protection for working conditions that respect the health and safety of workers, including by formulating policies that promote basic principles aimed at preventing accidents and injuries that arise out of or in the course of work, and that are aimed at developing a preventative safety and health culture where the principle of prevention is accorded the highest priority. When preparing and implementing measures aimed at health protection and safety at work, each Party shall take into account existing relevant scientific and technical information and related international standards, guidelines or recommendations, if the measures may affect trade or investment between the Parties. The Parties acknowledge that in case of existing or potential hazards or conditions that could reasonably be expected to cause injury or illness to a person, a Party shall not use the lack of full scientific certainty as a reason to postpone cost-effective protective measures (CETA, Article 23.3 Multilateral labor standards and agreements, 185).

In the legal language, there is a different interpretation to what certainly the word 'shall' implies, but even if in case the interpretation of the word 'shall' refers to a legal obligation which implementation is mandatory, the prescribed repercussions must be provided, which will be activated at the moment when someone from the contracting parties is acting contradictorily in comparison with the provisions in CETA.

In this case, if the parties shall ensure the labor law and shall provide protection for working, what is the repercussion if the contracting parties are not acting upon that? Or, what are the consequences if the parties are not using only relevant scientific and technical information and related international standards, guidelines, or recommendations, if the measures may affect trade or investment between the Parties when there is nothing provided on the contrary? Each Party reaffirms its commitment to effectively implement in its law and practices in its whole territory the fundamental ILO Conventions that Canada and the Member States of the European Union have ratified respectively. The Parties shall make continued and sustained efforts to ratify the fundamental ILO Conventions if they have not yet done so. The Parties shall exchange information on their respective situations and advances regarding the ratification of the fundamental as well as priority and other ILO Conventions that are classified as up to date by the ILO (CETA, Article 23.3 Multilateral labor standards and agreements, 185).

The scope of interest in this part is about the efforts that the parties will make to ratify the fundamental ILO Conventions if they have not yet done, also with no consequences and repercussions for acting neutral or on the contrary, creates the set of

circumstances for launching the dilemma are the rights of the workers and the labor standards remaining uphold high and respected in a trade deal as CETA.

In addition to its obligations under Article 27.1 (Publication), each Party shall encourage public debate with and among non-state actors as regards the development and definition of policies that may lead to the adoption of labor law and standards by its public authorities (CETA, Article 23.6 Public information and awareness, 186).

Considering the point that CETA influences the public rights and public services, the public had the right to be involved in the process of negotiations, but there was no public debate due to those topics, even a slice of encouragement about the development of policies that may lead to the adoption of the highest labor law and standards.

The Parties shall consult to reach an agreement on the composition of the Panel of Experts within 10 working days of the receipt by the responding party of the request for the establishment of a Panel of Experts. Due attention shall be paid to ensuring that proposed panelists meet the requirements set out in paragraph 7 and have the expertise appropriate to the particular matter (CETA, Article 23.10 Panel of Experts, 189).

Even if the word 'shall' in this case is interpreted as a mandatory 'must', how is secured that the proposed panelists will meet the requirements set out in paragraph 7 and have the expertise appropriate to the particular matter? What are the repercussions if there is an elected member who doesn't have the appropriate expertise?

If the final report of the Panel of Experts determines that a Party has not conformed with its obligations under this Chapter, the Parties shall engage in discussions and shall endeavor, within three months of the delivery of the final report, to identify appropriate measures or, if appropriate, to decide upon a mutually satisfactory action plan. In these discussions, the Parties shall take into account the final report. The responding Party shall inform on time its labor or sustainable development advisory groups and the requesting Party of its decision on any actions or measures to be implemented. Furthermore, the requesting Party shall inform on time its labor or sustainable development advisory groups and the responding Party of any other action or measure it may decide to take, as a follow-up to the final report, to encourage the resolution of the matter in a manner consistent with this Agreement. The Committee on Trade and Sustainable Development shall monitor the follow-up to the final report and the recommendations of the Panel of Experts. The labor or sustainable development advisory groups of the Parties and the Civil Society Forum may submit observations to the Committee on Trade and Sustainable Development in this regard (CETA, Article 23.10 Panel of Experts, 189).

If some party from the agreement has not complied with its obligations under this Chapter, how is going to be convictable that will fulfill its obligation, what are the consequences of that party from the agreement in case it doesn't conform to the previously mention obligations?

The open space for free interpretation is bringing into question the strength of the protection that workers, labor law, and labor standards are having under CETA.

Over the last two decades, the number of trade agreements with labor provisions has risen considerably. Typically, such provisions establish minimum standards of working conditions and labor rights and may also include a framework for cooperation, monitoring, and conflict resolution in differing forms. While there are clear similarities between the labor provisions used in different trade agreements, their content can vary considerably as a result of different approaches and country contexts. Their increasing use, in combination with the spread of different approaches, makes it important to explore the effectiveness of such labor provisions (International Labour Organization 2017).

PROVIDING LABOR STANDARDS IN THE TRADE DEALS AND THE CHALLENGING FROM THE FOREIGN INVESTORS

On investment protection, the Commission underlined the necessity to formulate substantive principles clearly and tangibly. It also underlined the importance of establishing a balance between different interests, such as the protection of investors against state intervention and the states' right to regulate in the public interest. Overall, it is possible to discern a fairly investor-centric narrative throughout the text which sets the priority as the protection of EU investors abroad (Ünüvar 2017).

The joint effort for making a combination of trade and labor is a very ingenious one, but an affiliation of putting a Labor Chapter into an economic agreement – very ambiguous. It is double-edged what's happening with the cross-border movement of employees, but not only on hard copy but in the business practice where labor mobility becomes an issue that is treated as a trade issue in a comprehensive economic agreement.

In addition to liberalizing trade and investment in goods and services, as well as facilitating labor mobility and regulatory cooperation, CETA, with its Chapter 19, aims to create a level playing field in matters of government procurement between Canada and the European Union. When the CETA negotiations began in 2009, EU firms did not have access to government procurement markets in Canada at the provincial and municipal levels (LeBlond 2016). Trade agreements as CETA have the primary aim to stimulate economic activity, foster investments, and support sustainable economic growth, so according to the primary aim, there is a necessity for the trade deal to provide an effective implementation of the labor standards and proper protection of the workers' rights. These provisions give investment tribunals significant discretion in interpreting states' obligations towards foreign investors and investments. It can be difficult to ascertain the evaluative criteria that a tribunal will employ to determine whether a breach has occurred and thus difficult to predict when a state will be held liable to

compensate an investor. As a result, a concern—borne out in some of the decided cases—is that these treaty provisions may unduly expose governments to compensate investors for non-discriminatory laws, regulations, and administrative decisions adopted to promote public welfare (Henckels 2016).

The requirement of positioning labor issues and treating the labor mobility in a trade agreement is a tremendous justification for the protection that these kinds of trade and economic deals are providing the investors and corporations.

Policymakers have used the presence of 'strong' labor provisions in trade agreements to argue that the social consequences of trade commitments are taken seriously. How are they now responding, and how should they respond in the future, to the serious deficiencies in those provisions which are becoming apparent? At the same time, is the ineffectiveness of labor provisions becoming part of a burgeoning class critique of trade policy? And do these issues require greater engagement from mainstream academic and trade policy communities? (Harrison 2019).

The CETA's provisions allow the foreign investors to directly challenge the actions of governments i.e. allows foreign companies to pursue governments directly for damages for alleged violations of the agreement. But, what has a connection with the improved labor standards, their implementation in the business practice while also at the same time being one of the biggest issues arising from the conclusion of CETA?

There is little doubt, in practice, that the violation of legitimate expectations will be a provision that investors will continue to invoke. With this less precise provision, the risk is increased that state behaviors could be found to constitute a violation of the legitimate expectations of investors (Jadeau and Gélinas 2016). The connection between the chapter which is provided with the labor standards and the chapter which allows the foreign investors to directly pursue claims is what makes the upholding of the high standards disputable because regardless of the sugarcoated language corporate vocabulary that is used in CETA, there are a variety of issues that are arising from the formulation of the provisions. The state's *lato sensu* right to regulate under public international law allows it to enter into international investment agreements and thereby limits its *stricto sensu* right to regulate.

In WTO law, this *stricto sensu* right to regulate broadly corresponds to the concept of balance and the embedded liberalism compromise. And although the term has been used in WTO law, it is with international investment law that the right to regulate started to be debated as such and was ascribed a particular meaning (Titi 2016).

CONCLUSION

The new challenges that globalization has brought are two-sided: on the one side there are the new opportunities, the new movement of human capital, the business association between countries from the whole world, diversity of integration on many levels in different fields, promoting mutual support, but on the other side the globalization wasn't really helpful in the continuous process of unemployment, raising the labor standards and lowering the exploitation of the working force. The economic growth should be in a function to protect the lowest unprotected levels in the society and to assure well their position, despite the reassurance regarding the capital, business, investment of the investors, because the inequality is more visible than ever. It is indisputable that globalization offers wide-open access among people and cultures when the goods, services, and trade are in question, but in that process considering the idea that the culmination already took its steps, there is a huge precariousness due to globalization, trade liberalization and the process of including the labor standards and mobility in trade agreements as CETA.

Extremely important to emphasize is the fact that the value of an agreement like CETA is imposing in the field of the economy – stimulating export and import, creating new opportunities, and promoting sustainable development. The bridge that CETA builds between the foreign investors and the trade possibilities is rock-solid and unbreakable because it's attracting foreign investors to stimulate direct investment in developing countries. But, the path that leads towards upholding high labor standards is very fragile and delicate. Chapter 23: 'Trade and Labour' from CETA as a chapter in which are provided the right to regulate the levels of protection and labor priorities, the multilateral labor standards and agreements, the upholding levels of protection afforded in the labor law and labor standards, the enforcement procedures, the administrative proceedings and review of administrative action, the public information and awareness, the cooperative activities, the institutional mechanisms, the panel of experts and the dispute resolution, the only merit toward responsibility for fulfilling the obligations coming from this provisions in the chapter is with the word 'shall' without provided repercussion, consequences and sanctions if some from the contracting parties are acting on the contrary from the provided. Taking into consideration that opening the domestic economy to the world economy has an important gap into the domestic jobs and losing workers without proportion of gaining new, doesn't prove the general presumption that the regular citizens are those who are having the greatest benefits from the trade liberalization.

Appreciating the analysis above, my conclusion is that labor mobility is not an issue that should be stated in an economic agreement as CETA unless it has full protection, not only with the non-obligatory word 'shall' because that statement is not protecting the workers' rights, on the contrary, is leading to creating unemployment. It's

a great doctrine in the same agreement to be included the foreign investors, the economy, the transactions, the sustainable development, and the labor standards, but the greatest will be if those provisions which are towards the labor law and labor standards would be assured in their implementation and not to be incorporated in an economic and trade agreement just as a cover-up for the real intention and protection of the foreign investors in which the workers are collateral damage. 🌐

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